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AMERICAN DEMOCRACY

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PREFACE.

The evolution theory, the doctrines of natural selection, and survival of the fittest, seem to be the reverse side of the shield of predestination, foreordination, and fatalism; and all are closely allied to the Pilgrim ideas of *immediate responsibility to God, imitation of Christ, and self-government.* Being of the ninth generation in direct lineal descent from Rev. John Robinson, the Pilgrim pastor, my curiosity led me into the study of Pilgrim ideas, and this little book is the result of my researches on the idea of self-government, which breathes nothing more nor less than THE SPIRIT OF THE GOLDEN RULE.

C. P. ROBINSON.

PITTSBURGH, FEB. 22d, 1896.

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PART I.

History of Democracy.

CHAPTER I.

ANCIENT GERMAN DEMOCRACY.

The seeds of honor, religion, and patriotism, lie buried deep within you. Honor is dearer to you than life. Religion is part of your very nature. Patriotism within you, sleeping, but never dead, will rise in majesty to meet every occasion. Democracy, the rule of the people, by the people, for the people, is the burden of my theme. Let us go together for a time and try to find exactly what pure democracy means.

In seeking truth we must be plain and simple, ever patient, ever responsive, yet firm and steadfast as the foundations of eternity itself ; and when instinct, reason, and conscience agree in pointing out the right, we must follow it with absolute fidelity, in a uniform and harmonious progression, to the bitter end, even if it breaks our hearts or tears the flesh from our bones, for this alone is the way to happiness, and happiness is all we hope for in this state of life or the next.

The roots of the present are grounded deep in the past, so we must turn back the pages of history and try to find the source of American democracy, and trace it down to the present time. The first account of a pure democracy is given by Tacitus, which Gibbon, in his history of "The Decline and Fall of the Roman Empire," (Vol. 1, chapter 9) states as follows :

"Civil governments, in their first institution, are voluntary associations for mutual defense. To obtain the desired end, it is absolutely necessary that each individual should conceive himself obliged to submit his private opinions and actions to the judgment of the greater number of his associates. The German tribes were contented with this rude but liberal outline of political society. As soon as a youth, born of free parents, had attained the age of manhood, he was introduced into the general council of his countrymen, solemnly invested with a shield and spear, and adopted as an equal and worthy member of the commonwealth. The assembly of the warriors of the military tribe was convened at stated seasons, or on sudden emergencies. The trial of public offenses, the election of magistrates, and the great business of peace and war, were determined by its independent voice. Sometimes indeed, these important questions were previously considered and prepared in a more select council of the principal chieftains. The magistrates might deliberate and persuade, the people only could resolve and execute. * * * A general of the tribe was elected on occasions of danger; and if pressing and extensive, several tribes concurred in the choice of the same general. The bravest warrior was named to lead his countrymen into the field, by his example rather than by his commands. But this power, however limited, was still invidious. It expired with the war, and in time of peace the German tribes acknowledged not any supreme chief. *Princes* were, however, appointed, in the general assembly to administer justice, or rather to compare differences, in their respective districts. In the choice of these magistrates, as much regard was shown to

birth as to merit. * * * The Germans respected only those duties which they imposed on themselves. * * * Tacitus indulges an honest pleasure in the contrast of barbarian virtue with the dissolute conduct of the Roman ladies. * * * The German huts, open, on every side to the eye of indiscretion and jealousy, were a better safeguard of conjugal fidelity, than the walls, the bolts, and the eunuchs of a Persian harem. To this reason another may be added, of a more honorable nature. The Germans treated their women with esteem and confidence, consulted them on every occasion of importance, and fondly believed that in their breasts resided a sanctity and wisdom more than human."

CHAPTER II.

THE GREAT CHARTER.

The second salient point in the evolution of democracy is "*Magna Carta*" of King John (1215 A. D.,) and the important part of this charter is Article 39, (Stubbs Select Charters, p. 301), which may be translated as follows:

"No free man shall be arrested or imprisoned, or deprived of his property, or outlawed, or exiled, or injured in any manner, nor will we ourselves lay hands upon him, except in accordance with the lawful judgment of his peers or the law of the land."

And the vital clause of this article is "the law of the land," which in truth settled nothing, for the kings

still claimed and exercised the right to make "the law of the land." But this charter is conclusive evidence, that the pendulum had swung from the pure democracy of the ancient Germans, to the absolute monarchy of England. And yet it should be said to the honor of the English Judges, that they stood up manfully against the king, and so interpreted this article of "*Magna Carta*", that the liberties of the English people have been regained, and indeed it it is often asserted that the constitutional law of England, is nothing more than a commentary on this article.

It may be observed that the phrase "the law of the land" is usually translated "due process of law," and in the latter form it appears in our Federal Constitution, where it means nothing whatever, but is simply a glittering generality, "full of sound and fury, signifying nothing." An examination of all the cases in which it appears, shows that everything depends upon the Judge before whom the case is brought, and an ignorant or corrupt Judge may call almost anything "due process of law."

CHAPTER III.

THE COVENANT OF THE PILGRIMS.

The pure democracy of the ancient Germans fell down dead, but the Pilgrim Fathers did its light relume. Men with wills of steel and hearts of oak did make these dry bones live again. Its spirit found a local habitation in the covenant made on the Mayflower. Listen to its voice:

"We * * * covenant and combine ourselves together into a civil body politic, for our better ordering and preservation and furtherance of the ends aforesaid; and by virtue hereof to enact, constitute, and frame such just and equal laws, ordinances, acts, constitutions, and offices, from time to time, as shall be thought most meet and convenient for the general good of the colony. Unto which we promise all due submission and obedience." (Goldwin Smith's Political History of the United States, pp. 5 and 6).

Here again we hear the primordial cry of self-government. "We frame such just and equal laws * * * for the general good of the colony," and the response comes, "Unto which we promise all due submission and obedience." Here again we find united the first and second principles of self-government, and the plain and simple democracy of the ancient Germans.

The Pilgrims were exiles from home, and must not be confounded with the Puritans of Massachusetts. The Pilgrims undertook to "plant the first colony in the northern parts of Virginia" "for the glory of God and advancement of the Christian faith." At first their scheme was socialistic. They held all things in common, but actual experience soon brought them face to face with starvation. They found that the strongest incentive to individual exertion had been removed, and the lazy imposed on the more industrious until they too lapsed into idleness. Actual want forced them to allot the land in private ownership. From this allotment was born the spirit of individual independence; cradled in a fierce fight for existence against stubborn nature, it leaped forth at Lexington, Concord and Bunker Hill, ranging for liberty.

CHAPTER IV.

THE CONSTITUTION OF CONNECTICUT.

The Pilgrims did not spread over Massachusetts, but moved westward into Connecticut, and it is here we find the next period in the evolution of self-government—the first *written* constitution the world had ever seen. Article 10 of the Constitution of 1639, (Johnston's History of Connecticut, pp. 389–396), reads "It is Ordered, sentenced and decreed" * * * that "In which said Generall Courts shall consist the supreme power of the Commonwelth, and they only shall haue power to make lawes or repeale them, * * * and also may deale in any other matter that concerns the good of this Commonwelth." And in the preamble we find the response: "As also in our Ciuell Affaires to be guided and gouerned according to such Lawes, Rules, Orders and decrees as shall be made, etc."

Here again we find the first and second principles of self-government. The people make the laws "for the good of this Commonwelth," and agree "to be guided and gouerned according to such lawes." In this way the people did rule themselves.

It is to be observed that the General Court is not exactly the General Assembly of the ancient Germans. A new step has been taken. It is not an Assembly of *all* the people, but merely an assembly of "deputyes," *representing* the people. The people now make the laws through their representatives.

CHAPTER V.

THE CONSTITUTION OF THE UNITED STATES.

The fifth and final step in the evolution of self government is the Constitution of the United States. In Section 1, of Article I, it is established that:

"All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a senate and house of representatives." And its complement is found in Section 1, of Article II.:

"The executive power shall be vested in a President of the United States of America, etc." and in Section 3: "he shall take care that the laws be faithfully executed." Here we find, as in the Connecticut Constitution, that the people make the laws through their agents, and this idea is further developed in that they also elect, by direct vote, an agent to see that the laws are obeyed. Of course both these steps were the invention of necessity. It was not practical for all the people to meet in one assembly, and also in practice all did not obey the laws. Yet the two primordial principles of self government are here. The people make their own laws by their agents, and by their agent see that they are obeyed. But it was not yet the pure democracy of the ancient Germans, because the Tenth Amendment made it impossible to tell whether it was a compact between the States, or a charter established by all the people of the United States as a body. It reads: "The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are *reserved to the states respectively or to the people.*" This

was a compromise of the principle of self government that all legislative power must belong "to the people." If any power was "reserved to the states", so that they could interfere with the legislative power of Congress, it follows, as a matter of course, that the people would not have the absolute power of making all laws through their delegates in Congress. The words "reserved to the states respectively," gave the States a claim to the rights of nullification and secession, because these powers were "not delegated to the United States by the constitution, nor prohibited by it to the states." This claim was settled by the sword in 1865, and given expression in the Fifteenth Amendment, thus: "The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by *any state*, on account of race, color, or previous condition of servitude."

This conclusively disposed of the claim to secession, for this was the precise and logical issue formed by the indirect interference of Congress with the voting power of slaves, alias "persons," and this brought us again to a pure democracy.

PART II.

Democracy in the United States.

CHAPTER I.

PRINCIPLES.

A principle is an axiom. It must be a truth of universal application. The person who has investigated the greatest number of special cases, ought to be able to approximate a principle more closely than one who has examined a less number. But special cases are infinite in number and variety, and it is impossible for the human mind to conceive of all that may arise, let alone examine them. Therefore the inductive method of reasoning is limited, and by following it we can never arrive at absolute truth. Yet the inductive method may furnish a basis for a hypothetic principle, which we can assume as absolute truth until it is proven otherwise.

Nature will allow us to assume that there is a male principle, and its counterpart a female principle.

It seems that a male principle is essential to the creation of anything, and everything, and a male principle implies that there must be a female principle. The one cannot exist or create anything without the other. Let us draw our illustration from nature. The water seems to be the male principle and the earth the female. The conjunction of these two bring forth life, vegetable and ani-

mal. The female seems to be the artist, and just as the earth fashions and moulds the plant, so the female among animals fashions and moulds her offspring from its conception to its birth.

Leaving the realms of nature and coming into the artificial world, here again we find two essential principles in everything. In architecture the male principle is the organic structure, and the details the female; so in music the organic structure of a composition is the male principle, and the melodic phraseing the female.

Thus it is possible to go on multiplying illustrations, but these few will suffice to make my meaning clear, and allow us to assume that there are *at least* two principles in *everything*, and essential to the creation of anything. And just as one principle is the complement of the other, so it is also the opposite of the other. In nature we know that light is the opposite of darkness, heat is the opposite of cold, and in artificial creations the organic structure is always the opposite of the details.

A principle has neither beginning nor end, hence it must be circular and move in a circle, just as our planet is round and moves round the sun. And just as a certain conclusion follows if we have the major and minor premises of a syllogism, so if we have the two principles in anything we find a certain result, and we can call this result force, nature, reason, law, truth or what you will. At any-rate it is a law of God. It is a rule which God used in his creations—in the creations of nature. If we follow the same rule or rules, and apply the same law or laws in our creations the result is a perfect work of art.

It is not my purpose to start a new religion, or build

up a new system of philosophy, therefore it is only proper to try to apply these principles to democracy.

CHAPTER II.

THE CORPORATION OF THE PEOPLE.

"'The United States of America' is the true name of that grand corporation which the American people have formed, and the charter will, I trust, long remain in full force and vigor," are the words of Chief Justice Marshall in the case of Dixon vs. The United States (reported in 1 Brockenbrough's reports page 181).

In early days all great enterprises were undertaken by individuals, but experience soon developed the fact that one person was not able to perform any great work, so partnerships were formed, but here also it was soon discovered that partners would die, and thus destroy the enterprise, so corporations were formed—a fictitious person having the attribute of immortality. In close analogy to this the idea of self-government grew up. At first an individual possessing the power of sovereignty would govern a country. The experience of mankind has shown it to be almost impossible to find a man, able to rule a country for the best interest of all concerned, and if such a one was found, his existence was short. So there has grown up the idea of a FICTITIOUS SOVEREIGN, IN THE NATURE OF A CORPORATION, POSSESSING THE ATTRIBUTE OF INDIVIDUALITY AND IMMORTALITY. Congress is the board of directors, and the

President is the general manager. Each citizen is a stockholder therein, and circumstances, *through political parties*, are allowed to develop the men best suited to be officers thereof. For example, the president is always the man, who can control the greatest number of votes in his own party, and at the same time draw the greatest number from the other parties; for, when it comes down to an election nothing counts but votes. In this way we arrive at the choice of the greatest number, and it seems to be the general opinion of politicians, that any other policy in making a nomination is a party's suicide. The dividends or assessments of the stockholders depend upon the kind of government they get.

This corporation has a charter, ordained and established by the people, and this charter is the Constitution. This Constitution consists of seven articles, the first two of which contain the two fundamental principles of self-government, while the other five and the amendments are merely corollaries to them. The first article establishes the legislative department.

CHAPTER III.

THE LEGISLATIVE DEPARTMENT.

The establishment of the legislative department was the result of a compromise. At an early stage of the constitutional convention two plans appeared. The first called the "Virginia Plan", was calculated to secure all the spoils to a combination of the larger States. The

second called the "Jersey Plan", was a counter scheme to secure the safety of the smaller States. The "Connecticut Proposal", of two houses with an equal vote in the upper (the Senate), and proportionate representation in the lower (House of Representatives), came forward and was finally adopted. Since the fall of the idea of State sovereignty, the reason for this arrangement—jealousy of the larger States—has passed away, and it would now be an easy matter for the two houses to melt into one general assembly.

The upper house, or Senate, consists of two members from each State, and is presided over by the Vice-President of the United States, or in his absence, by a president *pro tem*, selected from its own members. It organizes itself into a series of committees, and every matter of business is referred to its appropriate committee. The House of Representatives organizes itself by electing a Speaker, Clerk, and Sergeant-at-Arms, and then the Speaker appoints a series of committtees appropriate for every kind of business that may come before the House.

Nature is double. We have the freedom to do right, but unfortunately we also have the freedom to do wrong; and it should be the aim of every individual not so much to do right as to get rid of this freedom to do wrong, and yet avoid extremes. So the object of all legislation should be to correct evils or abuses—to right wrong.

The fundamental evil in a democracy is corruption. The love of money very often blasts the most lofty patriotism, and it is in Congress and state legislatures that we find it running riot ever since the late war. It may be asserted that with few exceptions, all the great

fortunes in this country had their origin in corrupt legislation. Every fortune which is not the fruit of industry and economy, is usually acquired by fraud, and should not belong to the possessor any more than any other kind of stolen property. A good illustration is the case of public franchises in the hands of railroads and trusts. The theory of the law is, the people give to these the right to take the property of individuals—called the right of eminent domain—no matter whether they want to part with it or not, *in trust* that they will be managed for the benefit of the public. In practice they are usually managed, through bribery and utter disregard of law, for the sole benefit of a few stockholders, who are enriched at the expense of the great body of people, and give nothing in return. It is now high time that we have some legislation looking towards the restoration of this stolen property to the people, and to the punishment of all offenders. This punishment should be severe, for, as Washington has said, no punishment is too great for the man, who builds his fortunes upon the ruins of his country.

A step in the right direction is that of the Corrupt Practices Act of Massachusetts, in which an attempt is made to specify each particular offense and the punishment for it.

Another great evil, riding like the old man of the sea upon the backs of Congressmen, is that of appointments in the civil service. A custom has grown up by which it is understood that Congressmen of the dominant party, shall control certain appointments as spoils of war. Personal service and not fitness for the position seems to

be the sole motive for making such appointments, and each member of Congress tries to build up a band of followers, like the ancient feudal system, which in modern times is called a "machine."

The ancient feudal system broke down, and it is hard to see why the modern political machine system will not go the same way. In the first place it uses up the time of Congressmen, who should devote their energies to the business of legislating for the benefit of the people, and not in pulling wires for petty offices. And from a practical point of view, it is bad policy for a Congressman to have anything to do with appointments. If he secures an appointment for one friend, he turns all other applicants for the same place into enemies, and the result is that a Congressman rarely ever serves more than one or two terms. But the greatest and most profound reason of all, is that offices are usually held up before Congressmen like hay before balky mules, in order to make them do something that the Executive wants. When the subtle Octavian came upon the scene, he used this precise policy toward the Roman Senators, and little by little the latter prostituted their ancient virtues to the will of Octavian, until they became completely subservient thereto, and the liberties of a free people were lost, never to be regained.

A law should be passed with a severe penalty, preventing any Congressman from making, or in any way pulling wires for appointments in the civil service. This would be a good thing, not only for the people, but for the Congressmen themselves.

CHAPTER IV.

THE EXECUTIVE DEPARTMENT.

"By the constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority and in conformity with his orders." (Chief Justice Marshall in Marburry v. Madison, 1 Cranch, 165-6).

The most important officers which the Executive appoints are, the Secretary of State, Secretary of the Treasury, Attorney General, Postmaster General, Secretary of the Navy, Secretary of War, Secretary of the Interior, and Secretary of Agriculture. These men are called his Cabinet, and after being confirmed by the Senate, become the heads of their respective dspartments. It is probably safe to say that about all the officers below these are ministerial officers, who should not be the subject of change, merely because of a change in the policy of the Chief Executive, or in case of the election of a new president. The fundamental idea of true civil service reform is, that all officers whose duties are not purely *ministerial*, should be subject to removal at the will of the President, because men who have a discretion naturally follow their own inherent political convictions; but all officers whose duties are purely *ministerial*, should be removable only on account of unfitness.

The Executive is supreme within his sphere

of action. If this were not so the people could not hold anybody responsible for bad appointments. Of course the President is only human, and liable to mistakes of judgment. He may be deceived by his advisors, and they in turn may be mistaken in their man, and the man himself may have led a pure life, and yet in a moment of weakness fall never to rise again. For these reasons bad appointments may be often excused, but it is hard to overlook the sale of the high office of Postmaster General, and the important position of Ambassador to Italy. The former sale was consummated and carried out to the end, but the parties to the latter had the courage to rectify it before it was too late, and gave us an able man who is worth at least the salary paid to him.

Government contracts are the black beast of the executive department. It is a very easy matter to trace the great fortunes in the United States down to a public franchise, or a government contract, and straight into the public treasury. A citizen pays his money into the treasury by way of taxes. Every cent that is taken from it by a contractor without giving true value in return, is morally a theft from the citizen and treason to the nation. Fraud should vitiate all contracts, and the statute of limitations should not run against the interests of the people.

We have had our Credit Mobilier, Belknap's impeachment, and the Star Route cases. We now have Armor Plate. The two chief gentlemen concerned in the last were there in double trust. The one for his eminent public services and fearless honesty, the other an unquestionable philanthropist and a master in his business. There virtues "plead like angels, trumpet tongued, at the deep

damnation of their'' course. But just as the wives of the ancient Germans kept open the sides of their "huts", so that all could see what was going on within while their husbands were away, so public servants should transact all public business openly and before the eyes of the people. But if the blinds are pulled down and the house darkened, grim suspicion will peer in at the lattice, strong men will bow themselves, and imagination "horsed upon the sightless couriers of the air shall blow the horrid deed in every eye." *For this is the purpose of the public press, which is the real safeguard of the nation.* Light is the opposite of darkness.

But the people will rise up at the voice of the patriot, for the grasshopper has become a burden. The golden bowl will be broken and the silver cord loosed.

CHAPTER V.

THE JUDICIAL DEPARTMENT.

From the union of the legislative and executive, was born the judicial department. It comes third in the natural order, and hence we find in Article III., Section 1 of the Constitution, that "The Judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish."

All the United States Judges are appointed by the

President and confirmed by the Senate. The Supreme Court consists of a Chief Justice and eight Associates. The most important inferior Courts so far established by Congress are: First, an Appellate Court consisting of two Appellate Judges and the Circuit Judge; second, the Circuit Court presided over by a Circuit Judge; and third, a District Court presided over by a District Judge. Each Court organizes itself by selecting its own officers.

Although the judiciary is the legitimate child of the legislative and executive principles, yet it stands alone in its grandeur. Its position is purely negative. It originates nothing. The following words of Chief Justice Marshall (Marbury vs. Madison, 1 Cranch, p. 176,) illuminate and define its sphere:

"That the people have an original right to establish, for their future government, such principles as, in their opinion, shall most conduce to their own happiness, is the basis, on which the whole American fabric has been erected. The exercise of this original right is a very great exertion; nor can it, nor ought it to be frequently repeated. The principles, therefore, so established, are deemed fundamental. And as the authority, from which they proceed, is supreme and can seldom act, they are designed to be permanent."

"This original and supreme will organizes the government, and assigns, to different departments, their respective powers. It may either stop here; or establish certain limits not to be transcended by those departments."

"The government of the United States is of the latter description. The powers of the Legislature are defined, and limited; and that those limits may not be mistaken,

or forgotten, the constitution is written."

(Pp. 179–80.) And "it is apparent, that the framers of the constitution contemplated that instrument, as a rule for the government of *courts*, as well as the legislature."

But like the leaden-eyed angel of the flaming sword, the Judiciary cuts both right and left. It not only decides the limits of the Legislature, but also the limits of the Executive power. And yet (Ibid, pp. 170) "The province of the Court is solely to decide on the rights of individuals, not to inquire how the Executive, or executive officers, perform duties in which they have a discretion."

A question is brought before the Court in regular order, the principle applicable to the case is stated and applied to the facts, and judgment pronounced. This principle should be carried out to its logical end, and the judgment executed as relentlessly and inexorably as the decrees of fate, or else favoritism will creep in and the guilty go unpunished.

The Roman Lawyers built up a system of private law, so logical that its principles when applied, worked out almost perfect justice between man and man, yet they failed in public law—that is in finding the true principles of government.

The object of modern law schools, judges and lawyers, is to find out, from a study of the common law, such fundamental principles, as when applied, will work out exact justice between man and man. To find a principle of law—a true rule of action—a vast number of cases must be examined, compared, and distinguished. And we must always remember, that a principle of law is only

hypothetic, unless it will work out justice in all cases. For illustration, *the Supreme Court is often criticised for laying down a principle in one case, which cannot be followed in all.* It has decided that all cases for the application of the police power, "are questions of fact and of public policy which belong to the legislative department to determine" (Powell vs. Pennsylvania, 127 U. S. p. 685). This ruling places the legislature of a state beyond the reach of the constitution, and simply means when carried to its logical end, that if a "boss" gets control of a legislature, he can have any law he wants, passed, call it an exercise of the police power, and take his enemies property without making any compensation. This is a breach of the first principle of public law—that all laws must be "just and equal."

It should be our aim to make each department of the government, move in the orbit fixed for it by the Constitution as accurately as the planets move round the sun, and just as we approach this ideal, we will come near to a system of government that is divine. Already the corporate structure of our system is broad as the country itself, and includes all the people. Power flows in a circle from the people to Congress, from Congress to the President, and from the President back to the people.

Among individuals reason should legislate, the body execute, and conscience be the judge. They should apply the principles herein set forth first to themselves, then to their families, thence to wards and townships, thence to cities, boroughs and counties, thence to states, and finally to the national government.

Then all would move in wondrous harmony and life be a pleasant dream.

This little book is written with charity for all, and malice toward none. The right to change, modify or abridge, anything contained herein is reserved, if any further light breaks forth from any source whatever. The ideas herein suggested will be further developed, if they meet with the approval of the people.

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